

22 March 1966

MEMORANDUM FOR THE RECORD

SUBJECT: Possible Amendment to CIA Retirement Act

1. Section 241 (b) of the CIA Retirement Act of 1964 sets forth a statutory order of precedence for the disposition of contributions and interest in excess of benefits received. Payment under that order "... shall be a bar to recovery by any other person."

2. The first order of statutory preference in Section 241 (b) is "To the beneficiary or beneficiaries designated by such participant in writing to the Director." The above language is substantially similar to that found in Section 11(c) of the Civil Service Retirement Act (5 U.S.C. 2261) "First, to the beneficiary or beneficiaries designated by the employee or Member in a writing received in the Commission prior to his death," and to Section 4 of the Federal Employees Group Life Insurance Act of 1954 (5U.S.C. 2093) "First, to the beneficiary or beneficiaries as the employee may have designated by a writing received in the employing office prior to death."

3. Senate Report 1064, 89th Congress, Second Session, reports that *Austin v. Sears* (292 Federal 2d 960) construed this language in the settlement of a FEGLI claim and held that "where no beneficiary had been named in the insurance contract, the designation of a beneficiary in a valid will would prevail over the beneficiary enumerated in section 4 of the act in order to comply with the wishes of the insured employee."

4. While the Senate Report cites other cases holding to the contrary, it is quite obvious that if the precedent of the *Sears* case were followed, administrative difficulties and uncertainty relating to the payment of benefits to survivors would ensue.

5. To forestall this difficulty in the case of the Civil Service Retirement Act and Federal Employees Group Life Insurance program, the Administration pushed through an amendment this month requiring designation of

beneficiaries to be signed and witnessed writings received prior to the employee's death and specifically excluding a will or other document not so executed and filed from having any force or effect.

6. The same rationale supporting this amendment to the Civil Service Retirement Act and FEGLI Act would also appear to apply to the CIA Retirement system of 1964, Section 241 (b), as amplified in H.R. 20-500(3).

 STATINTL

Office of Legislative Counsel

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